



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[212 LLUTY01000 L12200000.MA0000]

Notice of Proposed Supplementary Rules for the Klondike Bluffs Area of Public Lands Managed by the Moab Field Office in Grand County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Supplementary Rules.

SUMMARY: These proposed supplementary rules would limit camping to developed campgrounds and designated campsites within the Klondike Bluffs Mountain Bike Focus Area and a nearby isolated 160-acre Bureau of Land Management (BLM) parcel. The rules would require the use of portable toilets at designated campsites where constructed toilets are not provided. Additionally, the proposed supplementary rules would prohibit wood cutting and collecting in the Klondike Bluffs Mountain Bike Focus Area and the nearby 160-acre parcel.

DATES: Comments on the proposed supplementary rules must be received or postmarked by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments may be submitted by mail, hand delivery, or email to the BLM Moab Field Office, Attention: Katie Stevens, 82 East Dogwood Avenue, Moab, UT 84532, or kstevens@blm.gov. The proposed supplementary rules and accompanying environmental documents are available for inspection at the BLM Moab Field Office at the address listed above and on the ePlanning website at: <https://eplanning.blm.gov/eplanning-ui/project/117076/510>. To access this link, please copy it into any browser other than Internet Explorer.

FURTHER INFORMATION CONTACT: Jennifer Jones, Assistant Field Manager for Recreation, BLM Moab Field Office, 82 East Dogwood Avenue, Moab, UT 84532, (435) 259-2100, or blm_ut_mb_mail@blm.gov. Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1-800-877-8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Discussion
- IV. Procedural Matters
- V. Proposed Supplementary Rules for the BLM Moab Field Office

I. Public Comment Procedures

Written comments on the proposed supplementary rules must be sent in accordance with the information outlined in the “DATES” and “ADDRESSES” sections of this notice.

The BLM is not obligated to consider comments received after the close of the comment period (see “DATES”) unless they are postmarked or electronically dated before the deadline. The BLM is not obligated to consider comments delivered to an address other than that listed above in “ADDRESSES.” Comments should be specific, confined to issues pertinent to the proposed supplementary rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposed rule the comment is addressing.

Comments, including names, addresses, and other contact information of respondents, will be available for public review at the BLM Moab Field Office, 82 East Dogwood Avenue, Moab, UT 84532, during regular business hours (7:45 a.m. - 4:30 p.m., Monday through Friday, except Federal holidays). Before including your address, phone number,

email address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask the BLM in your comment to withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

II. Background

In September 2019, the BLM issued a Decision Record on an Environmental Assessment (EA) to limit camping to designated sites and developed campgrounds in the Klondike Bluffs Mountain Bike Focus Area and a nearby isolated 160-acre parcel of BLM-administered land that is completely surrounded by lands managed by the State of Utah. During the EA process, the BLM identified the need to establish enforceable supplementary rules concerning camping at these locations.

The BLM has documented significant increases in visitation numbers and resulting pressures on camping areas in the Moab Field Office. Therefore, the BLM has determined these proposed rules are necessary to increase sustainable camping and recreation opportunities, provide for visitor health and safety, prevent undue degradation of natural and cultural non-renewable resources, and promote high-quality outdoor recreation opportunities.

During the 15-day public comment period for the EA, the BLM received 14 comments, of which 13 were in support of the proposal. The proposal was also supported by Grand County, Utah. The Utah Governor's Office of Economic Development commented and offered monetary assistance with building a campground in the Klondike Bluffs area to enhance the quality of the world-class recreation opportunities.

III. Discussion

The BLM Moab Field Office

The BLM Moab Field Office has jurisdiction from the Grand County line to the north, the Utah-Colorado State line to the east, Harts Draw and Lisbon Valley to the south, and the Green River to the west. The public lands managed by the Moab Field Office are a domestic and international tourist destination hosting three million visitors per year. The Moab Field Office manages 45 developed campgrounds.

The proposed supplementary rules are critical for continuing to provide sustainable camping opportunities, public health and safety, reducing visitor conflicts, and protecting natural and cultural resources on public lands. The supplementary rules already in place have been effective in providing for visitor health and safety and protecting cultural and natural resources while improving the visitor experience. The proposed rules would supplement existing rules by providing protection to an additional high visitation area managed by the Moab Field Office.

The proposed rules regarding camping, human waste, and wood gathering would cover the Klondike Bluffs Mountain Bike Focus Area and a nearby 160-acre public land parcel (for a total of 14,786 acres) that has become increasingly popular as the Klondike Bluffs Mountain Bike Trail System has been developed. The restrictions are directly related to the degradation of natural resources, health and safety issues posed by the presence of human waste, and unsustainable levels of high-density camping use where no facilities exist to mitigate visitor impacts.

The reasoning for each rule is addressed below.

1. Proposed rule: You must camp at a designated site.

This proposed rule would apply to the Klondike Bluffs Mountain Bike Focus Area and a nearby 160-acre parcel where dispersed camping is degrading natural, visual, and wildlife resources while causing risks to human health. The affected area, which is enumerated in the Proposed Supplementary Rules section, reflects the recreation management decision (REC-6) in the 2008 Moab Resource

Management Plan (RMP) to limit dispersed camping as visitation impacts and environmental conditions warrant.

2. Proposed rule: You must use a constructed toilet or possess, set up for usage, and use a portable toilet to dispose of solid human waste. Exposure to human waste is a health risk to the public and BLM personnel. The continuous deposition of human waste on or just beneath the surface of the ground—which is largely sand and bare rock in the Moab region—is a risk that is not naturally mitigated. These risks are amplified in high-visitation areas and must be mitigated by specifying the methods of disposal. This rule would apply to the Klondike Bluffs Mountain Bike Focus Area and the nearby 160-acre parcel because the area experiences a very high level of visitation.

3. Proposed rule: You must not cut, gather, or collect wood.

Wood gathering depletes an already sparse supply of woody vegetation that is not readily replaced in the desert environment. As with camping and human waste, the Klondike Bluffs Area is at a greater risk of resource damage and depletion due to high visitation. In order to ensure that future visitors can enjoy the visual resources, and to protect the sensitive desert ecology, wood cutting, gathering, and collecting in the Klondike Bluffs area would be prohibited.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These proposed supplementary rules are not significant regulatory actions and are not subject to review by the Office of Management and Budget under Executive Order 12866. These proposed supplementary rules would not have an annual effect of \$100 million or more on the economy. They would not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These proposed supplementary rules

would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed supplementary rules would not materially alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights or obligations of their recipients; nor does it raise novel legal or policy issues. These supplementary rules merely establish rules of conduct for public use on a limited area of public lands.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites comments on how to make this supplementary rule easier to understand, including answers to questions such as the following:

1. Are the requirements in the supplementary rule clearly stated?
2. Does the supplementary rule contain technical language or jargon that interferes with their clarity?
3. Does the format of the supplementary rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce clarity?
4. Is the description of the supplementary rule in the “SUPPLEMENTARY INFORMATION” section of this preamble helpful in understanding the supplementary rule? How could this description be more helpful in making the supplementary rule easier to understand?

Please send any comments on the clarity of the rule to the address specified in the “ADDRESSES” section.

National Environmental Policy Act

These proposed supplementary rules are consistent with and necessary to properly implement decisions proposed, analyzed, and approved in EA #DOI-BLM-UT-Y010-2019-0021-EA. They would establish rules of camping conduct for public use of public lands managed by the Moab Field Office in order to protect public health, safety and

natural and cultural resources. The approved EA is available for review at the physical and on-line locations identified in the “ADDRESSES” section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended (5 U.S.C. 601–612) to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These proposed supplementary rules would merely establish rules of conduct for public use on a limited area of public lands. Therefore, the BLM has determined the proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These proposed supplementary rules are not “major” as defined under 5 U.S.C. 804(2). The proposed supplementary rules would merely establish rules of conduct for public use on a limited area of public lands and would not affect commercial or business activities of any kind.

Unfunded Mandates Reform Act

These proposed supplementary rules would not impose an unfunded mandate on state, local, or tribal governments in the aggregate, or the private sector of more than \$100 million per year; nor would they have a significant or unique effect on small governments. The proposed supplementary rules would have no effect on governmental or tribal entities and would impose no requirements on any of these entities. The proposed supplementary rules would merely establish rules of conduct for public use on a limited selection of public lands and would not affect tribal, commercial, or business activities of any kind. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C.

1531 et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These proposed supplementary rules do not have significant takings implications, nor are they capable of interfering with Constitutionally-protected property rights. The proposed supplementary rules would merely establish rules of conduct for public use for a limited area of public lands and would not affect anyone's property rights. Therefore, the Department of the Interior has determined these proposed supplementary rules would not cause a "taking" of private property or require preparation of a takings assessment under this Executive Order.

Executive Order 13132, Federalism

These proposed supplementary rules would not have a substantial direct effect on the states, the relationship between the Federal Government and the states, nor the distribution of power and responsibilities among the various levels of government.

These proposed supplementary rules would not conflict with any state law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined these supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined these proposed supplementary rules would not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination with Tribal Governments

In accordance with Executive Order 13175, the BLM conducted consultation and coordination with tribal governments in the development of the RMP and the EA which form the basis for the proposed rules. Tribal consultation was also undertaken on EA

#DOI-BLM-UT-Y010-2019-0021-EA. The two Tribes who responded (the Hopi and the Southern Ute) fully concurred with the proposed action to limit camping to designated sites.

Energy Supply, Distribution, or Use

Under Executive Order 13211, the BLM has determined the proposed supplementary rules would not comprise a significant energy action, and they would not have an adverse effect on energy supplies, production, or consumption.

Paperwork Reduction Act

These supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq. Federal criminal investigations or prosecutions may result from these rules, and the collection of information for these purposes is exempt from the Paperwork Reduction Act, 44 U.S.C. 3518(c)(1).

Author

The principal author of these supplementary rules is Kathleen Stevens, Outdoor Recreation Planner, BLM Moab Field Office, 82 East Dogwood Avenue, Moab, UT 84532.

V. Proposed Supplementary Rules for the BLM Moab Field Office

For the reasons stated in the preamble, and under the authorities for supplementary rules found at 43 U.S.C. 1740, and 43 CFR 8365.1-6, the BLM Utah State Director is proposing the following supplementary rules:

Definitions

The following definitions apply to the supplementary rules

Camping: The erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, motor home or trailer, or mooring of a vessel, for the apparent purpose of overnight

occupancy while engaged in recreational activities such as hiking, hunting, fishing, bicycling, sightseeing, off-road vehicle activities, or other generally recognized forms of recreation.

Klondike Bluffs Mountain Bike Focus Area: Public land located east of U.S. Highway 191, west of Arches National Park, north of the Dalton Wells Road and south of the block of state land near Interstate 70. A map of the area can be viewed at the Moab Field Office or in the Klondike Bluffs EA.

Portable Toilet: (1) A containerized and reusable system; (2) A commercially available biodegradable system that is landfill disposable (e.g., Rest Stop, Go-Anywhere Toilet Kit or “WAG bag”); or (3) A washable, reusable toilet within a camper, trailer or motor home.

The following rules apply to the Klondike Bluffs Mountain Bike Focus Area and a nearby 160-acre parcel:

- (1) You must camp at a designated site.
- (2) You must not dispose of human waste in any other container than a portable or constructed toilet.
- (3) You must not cut, gather, or collect wood.

Penalties

Under Section 303(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1733(a) and 43 CFR 8360.0-7, any person who violates any of these supplementary rules on public lands within Utah may be tried before a United States Magistrate and fined no more than \$1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Exemptions

Any Federal, State, local, or military persons acting within the scope of their duties; and members of an organized rescue or firefighting force in performance of an official duty.

Gregory Sheehan,

Bureau of Land Management, State Director, Utah.

[FR Doc. 2021-17704 Filed: 8/17/2021 8:45 am; Publication Date: 8/18/2021]